Office of the Information and Privacy Commissioner for British Columbia

# ANNUAL REPORT 2022-2023

OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
FOR BRITISH COLUMBIA

## WHO WE ARE

Established in 1993, the Office of the Information and Privacy Commissioner provides independent oversight and enforcement of BC's access and privacy laws, including:

- The ***Freedom of Information and Protection of Privacy Act*** (FIPPA), which applies to over 2,900 public bodies, including ministries, local governments, schools, crown corporations, hospitals, municipal police forces, and more; and
- The ***Personal Information Protection Act*** (PIPA), which applies to any private sector organization that collects, uses, and discloses the personal information of individuals in BC. PIPA also applies to any organization located within BC that collects, uses, or discloses personal information of any individual inside or outside of BC.

**Michael McEvoy** is BC's Information and Privacy Commissioner.

## OUR CORE VALUES

**Impartiality** We are independent and impartial regulators of British Columbia's access to information and privacy laws.

**Expertise** We use our expertise to enforce and advance rights, resolve disputes, and encourage best practices.

**Dedication** We are dedicated to protecting privacy and promoting transparency.

**Respect** We respect people, organizations, public bodies, and the law.

**Innovation** We are innovators and recognized leaders in the global community.

OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
FOR BRITISH COLUMBIA

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August 2023

The Honourable Raj Chouhan
Speaker of the Legislative Assembly
Room 207, Parliament Buildings
Victoria, BC V8V 1X4

Dear Honourable Speaker,

In accordance with s. 51 of the *Freedom of Information and Protection of Privacy Act* and s. 44 of the *Personal Information Protection Act*, I have the honour of presenting the office's Annual Report to the Legislative Assembly.

This report covers the period from April 1, 2022 to March 31, 2023.

Yours sincerely,

**Michael McEvoy**
*Information and Privacy Commissioner and Registrar of Lobbyists for British Columbia.*

# COMMISSIONER'S MESSAGE

I am pleased to present the 2022-23 annual report for the Office of the Information and Privacy Commissioner for British Columbia.

Accountability is a fundamental principle of the legislation my office is charged with administering.

It is the underlying basis for our *Freedom of Information and Protection of Privacy A*ct (FIPPA). The information in the custody and control of public bodies, your information, can help explain how government decisions are made. When that system is impaired so too is the public's ability to hold its government to account. That concern caused me to look at the provincial government's decision to levy a $10 fee on access to information requests. The assessment examined the six months following the fee's implementation, and, while too early to draw definitive judgments, raised some preliminary alarm bells — especially the declining use of the access to information system by the media, a pillar of our democracy already facing significant challenge in today's environment.

And accountability is not only about information access. Both FIPPA and the *Personal Information Protection Act* (PIPA) require public and private sector bodies to be accountable for the safekeeping and proper use of the personal information they collect about all of us. It's why we put the Provincial Health Services Authority under the microscope in the period covered by this report. We discovered a deeply troubling lack of security around some of BC citizens' most sensitive healthcare data. The good news is that the PHSA acted positively in response, working to fix those matters that were putting British Columbians most at risk.

We also worked together with the Federal privacy regulator and our colleagues in Alberta and Québec to look into the app of one of Canada's most iconic retailers, Tim Hortons. We found that the app really amounted to a surveillance tool that violated Canadian privacy rights. The result was that the company stopped continually tracking users who used the app, and deleted any location data they had collected.

The Tim Hortons investigation also highlighted something that by now is obvious to most of us. We live in a time where data flows, for the most part, without regard for provincial or national boundaries. It compels those of us who regulate the collection and use of personal information, particularly in the private sector, to work together. That is why our office led the effort to refresh our memorandum of understanding with fellow private sector privacy regulators in the country: Alberta, Québec and the Office of the Privacy Commissioner of Canada.

The global nature of data flows also explains the pivotal role the OIPC plays in the Asia Pacific Privacy Authorities (APPA). Much of BC's economic trade is with Asia Pacific countries and APPA connects privacy

regulators in 20 jurisdictions in the region. The OIPC serves as APPA's Secretariat and I Chair APPA's governing committee.

Accountability serves the public interest. It strengthens our democratic institutions. It creates trust in the private sector players in our economic system. And it cannot happen without a strong legal underpinning. That is why our office strongly advocates amending our public and private sector access and privacy laws to ensure they are fit for purpose. On February 1, 2023, the BC government brought long overdue amendments to FIPPA into force that require public bodies to report serious privacy breaches to our office and affected individuals, and requirements for public bodies to develop privacy management programs and privacy impact assessments for their initiatives. This was an important advance for which government should be commended.

It is my hope that we will continue to see reforms to both FIPPA and PIPA. The latter, in particular, has remained static since its inception, an untenable situation amid advancing developments in technology, particularly artificial intelligence.

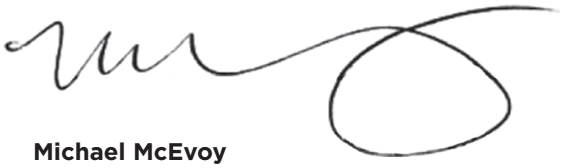
PIPA was originally developed to deal with individual complaints. It did not foresee the implications of burgeoning technologies that go far beyond small scale transactional privacy issues. It did not foresee rapid developments in artificial intelligence, nor for that matter platforms whose technological and economic powers exceed those of many countries.

And technology's impact on privacy rights is most keenly felt among our youth: as Christopher Wylie, the Facebook-Cambridge Analytica whistleblower, noted in our OIPC Youth Privacy Forum in March 2023, today's youth are the first generation to have every aspect of their lives digitally recorded from cradle to grave. The Forum underlined the urgent need for regulatory guardrails to protect privacy now to better protect all British Columbians in this radically changed world. It beckons our legislators to change BC's laws to bring them in line with developments in Europe and other jurisdictions including other provinces in Canada like Québec.

I am optimistic that our lawmakers are up to the task. The public interest requires it.

Finally on the issue of accountability I am mindful that the OIPC is accountable for its actions. That extends to making our processes more accessible to all British Columbians. It means addressing the complaints, questions, and request for reviews of public body decisions we receive more quickly. Our team has worked very hard to streamline our systems and added more resources to do this so that the public interest can be served more readily.

And it is that team of OIPC colleagues I would like to thank in closing. Each comes to their work with a deep sense of commitment and service. The public is extremely well served by their expertise, high ethical standards, and tireless dedication. I cannot thank them enough for their efforts over the past year and over my entire term.



**Michael McEvoy**
*Information and Privacy Commissioner and Registrar of Lobbyists for British Columbia.*

"ACCOUNTABILITY SERVES THE PUBLIC INTEREST. IT STRENGTHENS OUR DEMOCRATIC INSTITUTIONS. IT CREATES TRUST IN THE PRIVATE SECTOR PLAYERS IN OUR ECONOMIC SYSTEM. AND IT CANNOT HAPPEN WITHOUT A STRONG LEGAL UNDERPINNING."

# OIPC TEAM

STAFF AT THE OIPC ARE DELEGATED BY THE COMMISSIONER TO CARRY OUT THE RESPONSIBILITIES AND POWERS OF THE COMMISSIONER UNDER THE *FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT* AND THE *PERSONAL INFORMATION PROTECTION ACT*

## Commissioner

The Information and Privacy Commissioner for British Columbia, an independent Officer of the Legislature, oversees the information and privacy practices of public bodies and private organizations. The Commissioner has the legal authority to investigate programs, policies, or information systems in order to enforce compliance with BC's access and privacy laws. The Commissioner also reviews appeals of access to information responses; investigates access and privacy complaints; comments on the implications of new programs, policies, and technologies on access and privacy rights; issues binding orders; collaborates with national and international regulators; and engages in public education and outreach activities.

## Executive support

The Executive Support team assists the Commissioner, Deputy Commissioners, and OIPC and ORL staff with scheduling, coordinating cross-program projects, organizing and maintaining office facilities, and other administrative tasks as required. This team also responds to general enquiries from the public.

## Legal

The Legal team delivers comprehensive legal advice and guidance to the Commissioner and other teams on current and emerging matters relating to access, privacy and lobbying, as well as on matters relating to administrative law, common law, and constitutional law. OIPC Legal Counsel also instructs external counsel as appropriate.

## Case review

Case Review Officers provide guidance to individuals, organizations, and public bodies seeking information on OIPC processes and functions. They assess all incoming correspondence, including complaints, requests for review, and breach notifications, and initiate the appropriate action or assess whether a matter may proceed to Investigation. Additionally, they assist in early resolution of complaints and breach files, and exercise delegated decision-making authority to grant or deny public bodies' time extension requests.

## Policy

Policy Analysts research and analyze current and emerging access and privacy issues, review and comment on privacy impact assessments, and consult with public bodies and private organizations. They also review and analyze proposed legislation for implications to the access and privacy rights of British Columbians, review all public Independent Investigations Office reports (as legislated by the *Police Act*), provide guidance, and make educational presentations.

## Adjudication

When a complaint or request for review cannot be resolved at investigation, the Commissioner or their delegate may conduct an inquiry. Adjudicators assess the evidence and arguments and issue final and legally binding decisions. Orders are subject to review by the Supreme Court of British Columbia.

## Communications

The Communications team publicizes the work of the office, including public education and outreach to inform and empower individuals to exercise their information and privacy rights. They manage the office's website, social media presence, media relations, annual report, and open data/ proactive disclosure.

## Investigation & mediation

Investigators conduct investigations and mediations on access and privacy complaints, review access to information requests, make decisions on complaint files, and process privacy breach notifications. They review any records at issue or investigate relevant facts and evidence, and work with public bodies, organizations, complainants, and applicants to reach resolutions.

## Audit & systemic review

The Audit and Systemic Review (AnSR) team performs audits, systemic reviews and investigations of information access and privacy compliance within public bodies and private sector organizations in relation to legislation, guidelines, and best practices. AnSR projects may be conducted jointly with other access and privacy regulators, and often comprise high-profile, complex investigations.

## Office of the Registrar of Lobbyists

The *Lobbyists Transparency Act* (LTA) designates the Information and Privacy Commissioner as Registrar of Lobbyists for British Columbia. ORL Registry and Policy teams, assisted by the OIPC Investigations, Communications and Legal teams, manage the Lobbyists Registry and oversee the registration of lobbyists. They also promote compliance with the LTA through public education and investigate instances of non-compliance and issue administrative penalties when appropriate

## A dedicated staff, committed to service

A team of 58 people worked at the Office of the Information and Privacy Commissioner in 2022-23. An additional 32 Corporate Shared Services staff provided finance, administration, HR, IT, and facilities support to our office, as well as the three other Officers of the Legislature in our building, including the Office of the Merit Commissioner, the Office of the Police Complaint Commissioner, and the Office of the Ombudsperson.

During the 2022-23 fiscal year, the OIPC integrated a number of action items recommended by the office's Reconciliation, Equity, Accessibility, Diversity, Inclusion plus (READI+) team, formerly known as the Diversity and Inclusion Group (DIG). See the Highlights articles on page 18 for more details on these efforts.

OIPC staff also take pride in and have long supported community causes. This includes the Provincial Employees Community Services Fund (PECSF), as well as other local charities. OIPC staff received two awards for the 2022 PECSF campaign: highest participation, an award the office has received since 2013, and an individual nomination award recognizing a dedicated staff member: Spirit of Philanthropy.

# YEAR IN REVIEW

## April 1, 2022-March 31, 2023

### April 2022

**01** First day of reporting period.

**01** Commissioner delivers keynote speech on "Modernizing BC's Privacy Laws: Public and Private Sector Reforms" for the Canadian Bar Association's BC branch.

**06** Commissioner makes a **submission** to the Special Committee to Review the Freedom of Information and Protection of Privacy Act focused on recommendations about access and accountability, privacy protections, and oversight and enforcement.

**07** Commissioner delivers **speech** to the Special Committee to Review the Freedom of Information and Protection of Privacy Act.

**27** Commissioner delivers **spring update** to the Select Standing Committee on Finance & Government Services.


### May 2022

**02** Commissioner and other Canadian privacy regulators issue **joint statement** calling for a legal framework to limit police use of facial recognition technology.

**03** Commissioner issues **statement** for Privacy Awareness Week 2022, with the theme "Privacy is the foundation of trust."

**10** OIPC signs a renewed **memorandum of understanding (MOU)** with the Office of the Privacy Commissioner of Canada, the Information and Privacy Commissioner of Alberta, and the Commission d'accès à l'information du Québec (CAI) outlining how they will work together to provide continued comprehensive privacy protection for Canadians.

### June 2022

**01** A joint **investigation** conducted by the OPC, CAI, OIPC BC and OIPC AB finds that the Tim Hortons app violated privacy laws by collecting vast amounts of sensitive location data.

**07** OIPC releases a follow-up **report** noting improvements in liquor and cannabis retailers' compliance with privacy law, one year after a compliance review found privacy management lacking at these retailers.

**08** Commissioner issues a **statement** regarding the Special Committee to Review the Freedom of Information and Protection of Privacy Act's recommended changes to the legislation.

### July 2022

**05** Commissioner speaks about technology and regulatory trends in Asia Pacific data protection authorities at the **PL & B (Privacy Laws and Business) Conference** in Cambridge, UK.

### August 2022

**24** OIPC publishes the 2021-22 **Annual Report**.

**30** OIPC releases guidance document on **Political Campaign Activity** in follow up to its **Political Activity Code of Practice**.


### September 2022

**21** Commissioner and Deputy Commissioners attend annual Federal, Provincial, Territorial Information and Privacy Commissioners meeting in Newfoundland. The regulators issues a **joint resolution**, "Securing public trust in digital healthcare," calling for improved safeguards around the sharing of personal health information.

**25** Commissioner speaks at the meeting of the **Global Privacy Assembly** in Istanbul, Turkey on the topic of data protection in the Asia Pacific.

**26:** Commissioner issues **statement** for Right to Know Week 2022, stressing the vital importance of robust access to information laws to democracy.

## October 2022

**12** Commissioner issues **statement** regarding the passing of David Flaherty, British Columbia's first Information and Privacy Commissioner.

**19** Commissioner submits the 2023/24-2025/26 **Budget and Service Plan** and delivers **speech** to the Select Standing Committee on Finance & Government Services.


## November 2022

**11** OIPC presents at **Asia Pacific Privacy Authorities** (APPA) forum in Singapore.

**16** Commissioner delivers speech to nationwide regulators' investigators conference.

**17** Commissioner delivers presentation to University of Victoria students on social media and privacy.


## December 2022

**05** Commissioner speaks at the **COGEL (Council on Governmental Ethics Laws) Conference** about 1) how disinformation is keeping people from the polls and 2) the political campaign activity code of practice.

**15** OIPC **investigation** finds major security vulnerabilities within the Provincial Health Services Authority's public health database.

## January 2023

**13** OIPC submits **Supplementary budget request for fiscal year 2023/24-2025/26**, to Select Standing Committee on Finance and Government Services to request resources required to support amendments to FIPPA made in Bill 22.

**19** OIPC releases preliminary **review** of $10 freedom of information application fee, with mixed findings on the fee's initial impact and concerns over its administration.

**26** Commissioner speaks at Thompson Rivers University's **Privacy and Security Conference** about the increasing role of artificial intelligence and the need for oversight.

**27** Commissioner issues Data Privacy Day **statement**, noting advances in privacy protections under FIPPA and calling for similar updates to PIPA.

**27** Commissioner speaks at the Canadian Bar Association's BC Branch's Summit on amendments to FIPPA and the state of legislation in BC.

**31** In preparation for the February 1, 2023 coming into force of mandatory breach notification and privacy management programs in the public sector, OIPC releases guidance documents: **Privacy breaches: tools and resources for public bodies**; **Privacy breaches: tools and resources for the private sector**; **Privacy Breach Checklist for private organizations**; **Privacy Breach Checklist for public bodies**; and updated guidance on **Accountable Privacy Management in BC's Public Sector**.

## February 2023

**01** Mandatory breach reporting and privacy management program requirements go into effect for public bodies (**news release**).

**23** The OPC, CAI, OIPC BC and OIPC AB launch **joint investigation** into short-form video and streaming application TikTok.

**24** Commissioner takes part in a panel paying tribute to BC's first Information and Privacy Commissioner, David Flaherty, at the **25th Annual Vancouver International Privacy & Security Summit**.

**27** Commissioner delivers **speech** to the Select Standing Committee on Finance & Government Services, to address new responsibilities on the OIPC as a result of Bill 22.


## March 2023

**09** OIPC hosts a **Youth Privacy Forum**, with BC high school students, MediaSmarts, BC Civil Liberties Association and Cambridge Analytica whistleblower Christopher Wylie.

**29** Commissioner speaks at the NetDiligence Cyber Risk Summit in Toronto on regulatory updates with a focus on privacy.

**31** End of reporting period.

# IN HARM'S WAY: MAJOR SECURITY FLAWS FOUND IN BC'S PUBLIC HEALTH DATABASE

An OIPC investigation finds significant gaps in Provincial Public Health Information System

The Provincial Public Health Information System (the System) is a critical component of healthcare in this province. The System, run by the Provincial Health Services Authority (PHSA), provides frontline healthcare workers with the information needed to care for British Columbians. It also supplies public health officials and policymakers with vital data to monitor and address broader issues, such as the spread of infectious diseases.

To perform these functions, the System requires the personal information of almost every British Columbian. Depending on what treatment an individual has received, this can include personal health numbers and immunization records, and other highly sensitive information, such as details on pregnancies, mental health evaluations, or cases of sexually transmitted infections.

The *Freedom of Information and Protection of Privacy Act* (FIPPA) clearly states that public bodies are legally obligated to ensure adequate security safeguards are in place to protect personal information.

The OIPC's December 2022 report *Left untreated: Security gaps in BC's public health database* found that not only did the PHSA's data security protections fall far short of meeting this basic requirement, but that the public body had been aware of the vulnerabilities since 2019.

"Because there are no proactive processes in place to monitor for suspicious activity, a major breach of the database could occur today, and no one would know," said Commissioner McEvoy. "It is alarming to me that the PHSA knew about this and other vulnerabilities since 2019 — and had not fixed most of the problems."

The Commissioner noted that while the System is indispensable to the delivery of healthcare in the province, it is wide open to misuse without adequate safeguards. "The System is subject to abuse if wrongly accessed by any bad actor, ranging from cyber criminals to a jilted lover looking for information," he said. "Given its high level of sensitivity and the risk of its unauthorized access, one would expect the highest degree of privacy and security would be in place to protect our personal information from such intrusions. But as we learned during our investigation, this was not so."

## 'Front gate left open': vulnerabilities in System

The investigation found several vulnerabilities, including a weak "entry gate." For example, there was no universal requirement for multi-factor authentication to access the System. Compounding this risk was the absence of proactive auditing for suspicious activity — if an unauthorized individual did access the System, the action could go undetected in the absence of monitoring.

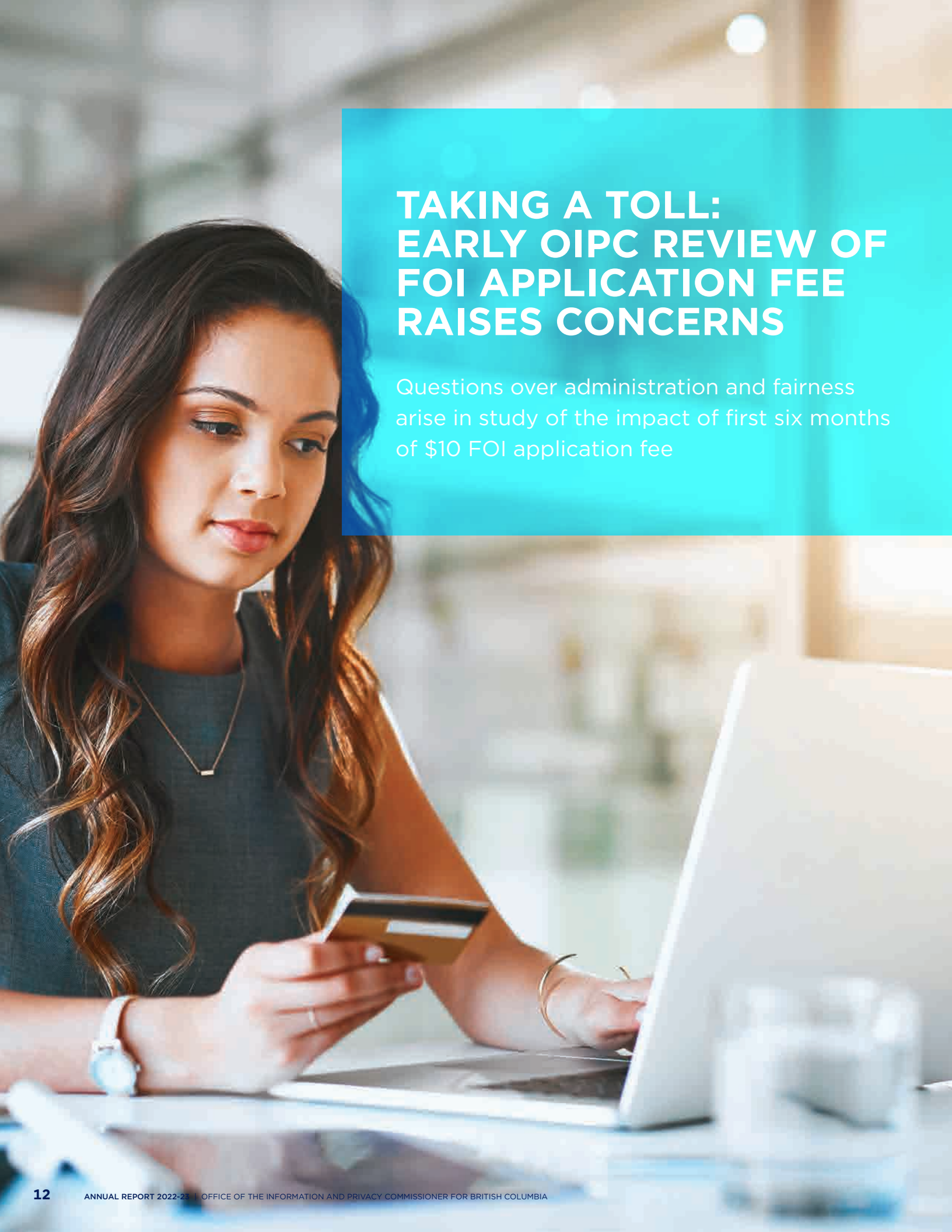
The report included seven recommendations for the PHSA to address the vulnerabilities in its System. These include deploying a proactive audit System, mandating multi-factor authentication to access the System, encrypting personal information at rest within the database, and developing appropriate written security architecture.

Commissioner McEvoy stressed the importance of urgent action to address the vulnerabilities found by investigators. "The consequences of failing to invest in privacy and security can be catastrophic," he said. "These impacts are serious, and we need to treat them seriously."

During the course of the investigation, the PHSA undertook a major System upgrade to address outdated and unsupported software, and performed vulnerability assessments and penetration testing to identify security risks that could lead to a privacy breach.

Following the report's release, the PHSA issued a statement expressing the agency's commitment to addressing the Commissioner's findings and improving the System's security safeguards. ●

**DOWNLOAD:** *Left untreated: Security gaps in BC's public health database*



# TAKING A TOLL: EARLY OIPC REVIEW OF FOI APPLICATION FEE RAISES CONCERNS

Questions over administration and fairness arise in study of the impact of first six months of $10 FOI application fee

British Columbia's access to information system plays a vital role in promoting transparency, accountability, and trust in our democratic institutions. Any barriers to the public's right to access government information — the *people's* information — weakens the system and erodes these fundamental democratic values.

In November 2021, amendments to the *Freedom of Information and Protection of Privacy Act* (FIPPA) introduced one such barrier by allowing public bodies to charge a $10 application fee for requests for records containing general information. This fee is in addition to public bodies' existing ability to charge fees for processing access requests.

The Commissioner voiced his objection to the fee in a letter to the Minister of Citizens' Services, calling it a "significant step in the wrong direction," and later committed to a review of the impact on the first six months of the fee's implementation.

That investigation report, *Access application fee six-month review*, released in January 2023, questioned how the fee was being administered, including concerns over fairness, and provided insights into freedom of information request volumes before and after the introduction of the fee.

The report examined the number of access requests made to the BC Government within the first six months, from November 30, 2021 to May 30, 2022, comparing data against the same period for the previous two years.

The fee's impact on the volume of FOI requests varied across different groups. The number of requests made by political parties decreased across the three periods reviewed. However, the report notes that the Official Opposition was already making fewer requests prior to the introduction of the fee. In contrast, the number of requests made by individual applicants increased both before and after the fee. Requests from media dropped after the fee's implementation, and submissions from media for the investigation specifically cited the fee as a barrier to access.

The report also raised concerns regarding how the fee was being administered. Public bodies did not, for example, have criteria in place to determine when to waive or refund the fee in the interests of fairness. Investigators found public bodies put requests on hold pending payment of the fee without the applicant receiving adequate notification. Some public bodies did not accept certain payment methods, in effect denying access. For example, written submissions detailed public bodies not accepting credit card payments or in person cash payments; preferring instead mail-in payment by cheque which is slow both in terms of the mailing time and the administrative processes of a public body once the cheque is received.

"British Columbians should not be denied timely responses to their access requests because of deficient administrative processes associated with the fee," said Commissioner McEvoy.

The Commissioner also said that public bodies are not required to charge the fee, and he discouraged them from doing so. For those that do, he offered five recommendations to address faults found in the investigation, including that organizations promptly inform applicants of any applicable fees and that they not suspend the 30-day response time until that notification is provided. He also recommended that public bodies offer multiple options to pay the fee for accessibility and develop policies on when they will charge or refund the fees.

Commissioner McEvoy said that the OIPC would continue to monitor the fee's impact on British Columbians' access to information rights. ●

**DOWNLOAD:** *Access application fee six-month review*

# DATA TO GO

Report finds Tim Hortons app collected vast amounts of sensitive location data without users' knowledge or permission

Canadians who downloaded a Tim Hortons app got more than they bargained for when they ordered a coffee for pickup at the coffee retailer. An investigation by the Office of the Information and Privacy Commissioner for British Columbia along with fellow regulators from the Office of the Privacy Commissioner of Canada, the Commission d'accès à l'information du Québec, and the Office of the Information and Privacy Commissioner of Alberta found that users of the app had their movements tracked and recorded every few minutes of every day, even when the app was not open.

The Tim Hortons app asked for permission to access the mobile device's geolocation functions, but implied that the information would only be accessed when it was in use. In fact, the app tracked users whenever the device was on and continually collected vast amounts of their location data. It also generated an "event" when users entered or left one of the coffee chain's competitors, their home, workplace, or even a sports venue.

Location data is sensitive personal information, because it can be used to make inferences about people — where they live and work, trips to medical clinics, their religious beliefs, sexual preferences, social political affiliations, and more. The investigation found that Tim Hortons' continuous collection of large amounts of such sensitive personal information was not proportional to the benefits it may have hoped to gain from targeted advertising.

Tim Hortons claimed it only used the aggregated location data to analyze user trends, but the investigation revealed that the company continued to gather its customers' location data for a year after it stopped collecting it for targeted advertising. And, although Tim Hortons stopped continually tracking users' locations in 2020, after the investigation was launched, the investigation also uncovered a troubling contract with their American third-party location services supplier.

"The language in the contract was sufficiently vague and permissive that it could have allowed the company to sell 'de-identified' location data for its own purposes," said BC Information and Privacy Commissioner Michael McEvoy.

The report stressed that to protect users from data profiling, organizations should implement contractual safeguards that limit service providers' use and disclosure of their app users' information, including in de-identified form.

"Not only is this kind of collection of information a violation of the law, it is a complete breach of customers' trust," said Commissioner McEvoy. "This investigation sends a strong message to organizations that you can't spy on your customers just because it fits in your marketing strategy."

The four Commissioners recommended that Tim Hortons delete any remaining location data, and directed third-party service providers to do the same. They also recommended that Tim Hortons establish and maintain a robust privacy management program. This program should include privacy impact assessments for the app and any future apps it develops. Finally, the Commissioners recommended that Tim Hortons create a process to ensure any information collection is necessary and proportional to the privacy impacts identified, and requested Tim Hortons report back to the Commissioners with the details of measures it has taken to comply with the recommendations.

"The good news is that Tim Hortons is implementing the recommendations we set out, and I hope other organizations can learn from the results of this investigation," said McEvoy. ●

**DOWNLOAD:** *Report of Findings: Joint investigation of TDL Group Corp. (Tim Hortons)*

# PROGRESS ON THE ROAD TO REFORM

Amendments to FIPPA represent an important step forward for BC's public sector privacy law and a guide for private sector law reform

Since his appointment in 2018, reform of both public and private sector privacy laws in BC has been a priority for Information and Privacy Commissioner Michael McEvoy, consistent with the mandate of providing advice on reform to laws that can benefit citizens, public bodies, organizations and businesses alike.

In October 2021, the BC government introduced amendments to the *Freedom of Information and Protection of Privacy Act* (FIPPA). These amendments represent the most significant changes to the Act in over a decade.

Two of the most important changes that apply to all public bodies and will lead to greater privacy protection for British Columbians — mandatory requirements for both breach notification and privacy management programs — came into force on February 1, 2023.

"My office has long advocated for these changes," said Commissioner McEvoy. "They mark an important step forward for our province's public sector privacy law."

The new rules around privacy breach notification and reporting require public bodies to notify affected individuals and the OIPC of breaches that could result in significant harm to an individual. Examples of these harms include identity theft, risk of physical harm, humiliation and damage to personal or professional reputations, and loss of business or employment opportunities.

The privacy management program amendment requires public bodies to develop policies and procedures, proportionate to the volume and sensitivity of the personal information they manage.

"British Columbians can have greater confidence when they entrust their personal information to public bodies and that these entities have programs in place to protect that information," said Commissioner McEvoy. "And if a breach happens, that no time will be wasted in informing them and our office so that we can all work to minimize harms."

"We have long urged public bodies to create privacy management programs and are pleased with this new requirement," said Commissioner McEvoy. "It's important to note that creating a program is not a 'one and done' activity. Privacy management programs should be an ongoing process."

The OIPC is available to consult with public bodies or private organizations about their privacy management programs. These consultations happen under the Commissioner's policy on privacy consultations, meaning they do not prejudice the Commissioner's ability to process a complaint, should one come to our office.

The Commissioner said that these changes stand to strengthen the trust between British Columbians and the public bodies that serve them. He called on government to amend the private sector *Personal Information Protection Act* (PIPA), to ensure that it too is better able to address modern privacy challenges.

"While these changes affect the public sector only at this time, it is my hope that the *Personal Information Protection Act* will be soon amended to also require mandatory breach notification and privacy management programs for organizations," said McEvoy.

**Privacy management programs must include[1]:**

1. Designation of someone responsible for privacy-related matters and the development, implementation and maintenance of privacy policies/procedures.
2. Process to complete and document privacy impact assessments and information-sharing agreements as appropriate under FIPPA.
3. Documented process for responding to privacy complaints and breaches.
4. Ongoing awareness/education on privacy activities for staff.
5. Privacy policies/documented privacy processes or practices available to employees and, where practicable, the public.
6. Methods to ensure service providers know privacy obligations.
7. Process to regularly monitor and update privacy management program as needed.

1 This list is summarized from the Ministry of Citizens' Services' Privacy Management Program Direction. For full requirements, visit: https://www2.gov.bc.ca/assets/gov/british-columbiansour-governments/services-policies-for-government/information-managementtechnology/pmp_ministerial_direction_2023.pdf)

**DOWNLOAD:** *Accountable Privacy Management in BC's Public Sector*

*Privacy breach checklist for public bodies*

*Privacy breach checklist for private organizations*

*Privacy breaches: tools and resources for public bodies*

# HIGHLIGHTS

## OIPC making services more accessible and inclusive

The OIPC is committed to creating inclusive, accessible services and spaces. The office continues its work to embrace the principles of equity and inclusion.

The Reconciliation, Equity, Accessibility, Diversity, Inclusion plus (READI+) team, formerly known as the Diversity and Inclusion Group (DIG), implemented several key initiatives reflecting this commitment, such as professional development training on plain language and inclusive writing. OIPC staff also took part in education on putting trauma-informed principles into practice. The OIPC is working to undertake further education on how to ensure our processes are inclusive of Indigenous applicants and complainants. Progress is also underway to provide accessible and all-gender access to office facilities.

Preparations are underway by OIPC to implement its responsibilities of the *Accessible BC Act*. The office will be subject to the legislation in fall 2024.

Expanding the accessibility of OIPC information and services into multiple languages is a key priority of the office. To this end, a pilot program was launched in spring 2023 to provide spoken language interpretation in eight languages. A digital accessibility audit for the website and external communications, including the website, was initiated. The aim of the audit is to serve as a roadmap for future work to ensure the office meets digital accessibility standards.

## OIPC Youth Privacy Forum brings young people into the conversation

The OIPC hosted a virtual Youth Privacy Forum in March 2023 to bring youth into the conversation about privacy and hear about the issues that impact them most. British Columbia high school students were invited to share their perspectives about privacy relating to the technology and services they use on a daily basis. During the Forum, the students heard from the BC Civil Liberties Association (BCCLA), MediaSmarts, as well as special guest speaker, Cambridge Analytica whistleblower and social researcher, Christopher Wylie. Mr. Wylie joined Information and Privacy Commissioner Michael McEvoy and the students for an engaging, wide-ranging discussion on modern privacy challenges, including rapid advances in artificial intelligence. The presentations by the BCCLA and MediaSmarts delved into students' privacy rights at school and making ethical choices online. A summary of the Forum is available on the OIPC website.

**DOWNLOAD:** The Digital Dilemma: Reflections on the OIPC Youth Forum

Report details pressing privacy challenges facing young people, path to improved protections with BC 'Children's Code'

## Awareness campaigns put privacy and access in spotlight

A core part of the Commissioner's mandate is to educate the public about their privacy and access rights. To this end, the OIPC joins international awareness-raising campaigns centred on these important themes. In May the office marked Privacy Awareness Week, an initiative of the Asia Pacific Privacy Authorities (APPA). Speaking to the 2022 theme, "Privacy is the foundation of trust," Commissioner McEvoy highlighted in a statement the need for apps and platforms rapidly deployed during the pandemic in the workplace, education, and health care to protect personal information as "a matter of trust" with users. Access took centre stage during Right to Know (RTK) Week, celebrated in September, as the Commissioner shared OIPC resources and guidance documents to raise awareness of our right to access government information. In his 2022 RTK statement, the Commissioner encouraged public bodies to proactively disclose more categories of records.

**DOWNLOAD:** Commissioner's statement for Privacy Awareness Week 2022: Privacy is the foundation of trust

Commissioner's statement for Right to Know Week 2022

## Guidance sets ground rules for political campaigns' handling of personal information

Political organizations play an integral role in a well-functioning democracy — and they increasingly rely on vast amounts of voters' personal information to do so. How they handle that information has a direct impact on voter trust in the electoral process and our democratic system. In March 2022, BC's three major political parties agreed to abide by the best practices in handling voters' personal information outlined in the "Campaign Activity Code of Practice," developed by the OIPC and Elections BC in consultation with the parties. The *Political campaign activity* guidance document is a follow-up to the Code that focuses on all types of political campaigning — municipal, provincial, federal, as well as referendum and election campaigns. The guidance provides best practices for campaign organizers to comply with their obligations for collecting, using and disclosing people's personal information under the *Personal Information Protection Act* (PIPA), including guidance on obtaining voter consent, the requirement for a reasonable purpose for the collection, use and disclosure of personal information, the importance of privacy management programs, and the specific role of canvassers in collecting personal information.

**DOWNLOAD:** Politcal Campaign Activity Guidance

# HIGHLIGHTS

## Liquor/cannabis retailers' privacy practices improve in follow-up review

A follow-up report by the OIPC found that liquor and cannabis retailers in British Columbia are improving their privacy management practices. The report followed an initial review that determined many of these retailers failed to maintain adequate privacy management programs or document privacy policies as required under BC's *Personal Information Protection Act* (PIPA). The follow-up review found that retailers had fully implemented 70% of the OIPC's recommendations, and partially implemented a further 22%. Since publishing the update, the OIPC continued its work with the retailers, who had fully implemented 97% of the recommendations by the end of March 2023. The OIPC will continue to follow up on this work. The original report contained 18 recommendations for liquor and cannabis retailers to establish and maintain privacy management programs.

**DOWNLOAD:** Investigation and Audit Reports

## OIPC order finds individual abused FIPPA review and inquiry process

The purposes of BC's *Freedom of Information and Protection of Privacy Act* (FIPPA) include making public bodies more accountable by giving the public a right to access records in the custody or control of a public body (subject to specified limited exceptions). The public's right of access, however, must not be abused. For several years, a medical practitioner had been engaged in a dispute with the Province regarding its audit of his Medical Services Plan billings and he had made many FIPPA access requests for records related to that matter. The Ministry of Attorney General, the Ministry of Finance, and the Ministry of Health requested the Commissioner not conduct any more inquiries that relate to the individual's access requests about the Medical Services Plan matter because he was abusing FIPPA. The adjudicator found that the individual was abusing FIPPA's review and inquiry processes and canceled 10 files that were at inquiry and 12 files that were at investigation and mediation. However, the adjudicator declined to make the orders the Ministries requested regarding future matters that did not yet exist. This matter is currently under judicial review.

**DOWNLOAD:** Order F23-23: Ministry of Attorney General, Ministry of Finance and Ministry of Health

## OIPC order finds that school district correctly withheld information

Schools can hold highly sensitive personal information about students, including names, grades, and addresses, but they also have data that can be used to infer identities. An applicant requested copies of statistical reports from the Board of Education of School District 61 (SD61) related to the number of times students with special needs had been removed from classes or excluded from school trips. SD61 released the statistical information for each school listed in the reports but withheld the names of the schools under s. 22(1). This section of FIPPA states that, "The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy." SD61 maintained that they withheld the information because its disclosure could identify individual students. An OIPC adjudicator agreed, and found that SD61 had correctly applied s. 22(1).

**DOWNLOAD:** Order F22-40: The Board of Education of School District 61 (Greater Victoria)

## Cross-border privacy priorities take centre stage at APPA Forums

Threats to personal information are not confined by borders — and responses to them must recognize that reality. The Asia Pacific Privacy Authorities (APPA) forum brings regional regulators together to advance this vital effort. The OIPC continued to play a leading role in APPA as Secretariat for the forum. During the period covered in this report, two APPA Forums were held: APPA 57, hosted by the Office of the Privacy Commissioner for Personal Data, Hong Kong and APPA 58, hosted by the Personal Data Protection Commission, Singapore. The latter meeting was the first to be held primarily in-person since the pandemic. Both Forums saw dynamic and wide-ranging discussions and collaboration on pressing global privacy issues, including children's online privacy, artificial intelligence, privacy enhancing technologies, cross-border privacy rules, as well as discussions on enforcement and legislative development across the region.

**DOWNLOAD:** 57th APPA Forum Communiqué
58th APPA Forum Communiqué

# YEAR IN NUMBERS

**TABLE 1. Year in numbers summary of all FIPPA and PIPA files received in 2022-23**

| | Received 22/23 | Closed 22/23 | Received 21/22 | Closed 21/22 |
|---|---|---|---|---|
| **Privacy breach notification** | | | | |
| FIPPA | 108 | 93 | 65 | 71 |
| PIPA | 141 | 141 | 109 | 108 |
| **Privacy complaints** | 327 | 311 | 389 | 315 |
| **Access complaints** | 441 | 467 | 479 | 456 |
| **Requests for review** | | | | |
| Requests for review of decisions to withhold information | 494 | 452 | 521 | 481 |
| Deemed refusal | 235 | 239 | 259 | 265 |
| **Applications to disregard requests as frivolous or vexatious** | 12 | 9 | 14 | 16 |
| **Time extensions** | | | | |
| Requests by public bodies and private organizations[1] | 2139 | 2139 | 3260 | 3260 |
| Requests by applicants seeking a review[2] | 44 | 43 | 40 | 42 |
| **Public interest notification (s. 25)** | 9 | 8 | 20 | 20 |
| **Requests for reconsideration of OIPC decisions** | 45 | 50 | 75 | 92 |
| **Information requested/received** | | | | |
| Requests for information | 3142 | 3148 | 5340 | 5340 |
| Non-jurisdictional issue | 10 | 11 | 23 | 25 |
| No reviewable issue | 1 | 2 | 110 | 118 |
| Request for contact information (research) | 4 | 3 | 1 | 1 |
| **Media inquiries** | 75 | 74 | 101 | 114 |
| **FOI requests for OIPC records** | 23 | 23 | 15 | 14 |
| s. 60 adjudications of OIPC decisions[3] | 1 | 0 | 0 | 0 |
| **Commissioner initiated reports** | | | | |
| Privacy reports | n/a | 3 | n/a | 2 |
| Access reports | n/a | 1 | n/a | 1 |
| **Policy** | | | | |
| Policy or issue consultation | 192 | 193 | 339 | 333 |
| Legislative reviews | 25 | 23 | 22 | 18 |
| Police Act IIO reports | 60 | 59 | 50 | 50 |
| Privacy impact assessments | 54 | 50 | 76 | 70 |
| **Public education and outreach** | | | | |
| Speaking engagements | 81 | 61 | 45 | 45 |
| Meetings with public bodies and private organizations | 12 | 10 | 22 | 26 |
| **Other (includes all file types except those otherwise listed)** | 73 | 76 | 112 | 104 |
| **TOTAL** | **7,748** | **7,689** | **11,487** | **11,387** |

1. (incl. s. 10 (FIPPA) and s. 31(PIPA)
2. (incl. s. 53 (FIPPA) and s. 47 (PIPA)
3. The OIPC publishes s. 62 decisions here: https://www.oipc.bc.ca/rulings/adjudications/

## TABLE 2. Breakdown of access complaints received in 2022-23 (FIPPA and PIPA)

| | 2022-23 |
|---|---|
| Duty required by Act | 104 |
| Time extension by public body | 27 |
| Adequate search | 248 |
| Fees | 43 |
| No notification issued | 19 |
| **TOTAL** | **441** |

**NOTE:**

**Duty required by Act:** Failure to fulfill any duty required by FIPPA (other than an adequate search).
**Time extension by public body:** Unauthorized time extension taken by public body.
**Adequate search:** Failure to conduct adequate search for records.
**Fees:** Unauthorized or excessive processing fees assessed by public body.
**No notification issued:** Failure to notify as required under s. 25 of FIPPA

## TABLE 3. Breakdown of privacy complaints received in 2022-23 (FIPPA and PIPA)

| | 2022-23 |
|---|---|
| Accuracy | 3 |
| Collection | 112 |
| Use | 11 |
| Disclosure | 119 |
| Retention | 16 |
| Correction | 41 |
| Reasonable security | 25 |
| **TOTAL** | **327** |

**NOTE:**

**Accuracy:** Where personal information in the custody or control of a public body is inaccurate or incomplete.
**Collection:** The unauthorized collection of information.
**Use:** Unauthorized use by the public body or private organization.
**Disclosure:** Unauthorized disclosure by a public body or private organization.
**Retention:** Failure to retain information for the time required.
**Correction:** Refusal to correct or annotate information in a record.
**Reasonable security:** Failure to implement reasonable security measures.

# YEAR IN NUMBERS

## TABLE 4. Number of FIPPA complaints and requests for review received in 2022-23 by public body

| Public body | Complaints received | Requests for review received | Total |
|---|---|---|---|
| Ministry of Health | 22 | 48 | **70** |
| City of Vancouver | 26 | 27 | **53** |
| Island Health | 21 | 26 | **47** |
| ICBC | 20 | 21 | **41** |
| Ministry of Children and Family Development | 11 | 29 | **40** |
| Vancouver Police Department | 12 | 28 | **40** |
| Fraser Health | 18 | 21 | **39** |
| Ministry of Forests | 8 | 20 | **28** |
| University of BC | 7 | 20 | **27** |
| WorkSafe BC | 22 | 5 | **27** |
| **Top 10 totals** | **167** | **245** | **412** |
| All other public bodies | **349** | **386** | **735** |
| **TOTAL** | **516** | **631** | **1,147** |

## TABLE 5. Number of PIPA complaints and requests for review received in 2022-23 by sector

| Sector | Complaints received | Requests for review received | Total |
|---|---|---|---|
| Services* | 77 | 28 | **105** |
| Health | 43 | 29 | **72** |
| Real Estate | 26 | 5 | **31** |
| Finance/Insurance | 22 | 5 | **27** |
| Administrative Support | 21 | 1 | **22** |
| Retail Trade | 13 | 8 | **21** |
| Professional/Scientific | 13 | 1 | **14** |
| Arts/Entertainment | 8 | 4 | **12** |
| Education | 4 | 8 | **12** |
| Accommodation | 8 | 1 | **9** |
| **Top 10 totals** | **235** | **90** | **325** |
| Other | **17** | **8** | **25** |
| **TOTAL** | **252** | **98** | **350** |

*Services include various organizations such as personal services, religious, civic, social advocacy, business, professional, labour and other.

**NOTE (TABLES 6 - 9):**

**FIPPA Investigation** includes files that were mediated, not substantiated, partially substantiated, substantiated, and withdrawn.

**FIPPA No Investigation** refers to files with no jurisdiction, no reviewable issue or files in which the OIPC referred the complainant back to the public body or declined/discontinued an investigation.

**FIPPA Inquiry** includes files that proceeded to inquiry.

**PIPA Investigation** includes files that were mediated, not substantiated, partially substantiated, and substantiated or withdrawn.

**PIPA No Investigation** refers to files with no jurisdiction, no reviewable issue or files in which the OIPC referred the complainant back to the organization, declined or discontinued at investigation.

**PIPA Inquiry** refers to files that proceeded to inquiry from Investigation.

## TABLE 6. Outcome of access complaints resolved in 2022-23, FIPPA

| Type | Investigation | No investigation | Inquiry | Total |
|---|---|---|---|---|
| Adequate search | 97 | 124 | 1 | **219** |
| Duty required by Act | 32 | 44 | 15 | **82** |
| Fees | 23 | 18 | 2 | **42** |
| Time extension by public body | 21 | 4 | 0 | **25** |
| s. 25 not applied | 4 | 14 | 7 | **24** |
| **TOTAL** | **177** | **204** | **25** | **406** |

## TABLE 7. Outcome of access complaints resolved in 2022-23, PIPA

| Type | Investigation | No investigation | Inquiry | Total |
|---|---|---|---|---|
| Adequate search | 19 | 23 | 0 | **42** |
| Duty required by Act | 9 | 4 | 0 | **13** |
| Fees | 4 | 1 | 1 | **6** |
| **TOTAL** | **32** | **28** | **1** | **61** |

# YEAR IN NUMBERS

## TABLE 8. Outcome of privacy complaints resolved in 2022-23, FIPPA

| Type | Investigation | No investigation | Inquiry | Total |
|---|---|---|---|---|
| Accuracy | 0 | 2 | 0 | **2** |
| Collection | 17 | 20 | 0 | **37** |
| Correction | 8 | 10 | 0 | **18** |
| Disclosure | 32 | 23 | 2 | **57** |
| Retention | 4 | 2 | 0 | **6** |
| Use | 6 | 1 | 0 | **7** |
| Reasonable security | 6 | 4 | 0 | **10** |
| **TOTAL** | **73** | **62** | **2** | **137** |

## TABLE 9. Outcome of privacy complaints resolved in 2022-23, PIPA

| Type | Investigation | No investigation | Inquiry | Total |
|---|---|---|---|---|
| Accuracy | 1 | 1 | 0 | **2** |
| Collection | 34 | 26 | 1 | **61** |
| Correction | 5 | 5 | 0 | **10** |
| Disclosure | 43 | 28 | 0 | **71** |
| Retention | 5 | 2 | 0 | **7** |
| Use | 4 | 4 | 0 | **8** |
| Reasonable security | 7 | 8 | 0 | **15** |
| **TOTAL** | **99** | **74** | **1** | **174** |

## TABLE 10. Outcome of all complaints resolved by the OIPC (FIPPA and PIPA) in 2022-23

| Investigations | No investigations | Inquiry | Declined to investigate/ discontinued | Total |
|---|---|---|---|---|
| 381 | 335 | 29 | 33 | **778** |

**NOTE (TABLES 11 - 13):**

**FIPPA/PIPA mediated/resolved** include files that were mediated or withdrawn.

**FIPPA/PIPA Declined to Investigate/discontinued** include files which were declined, or discontinued at investigation, closed due to no jurisdiction, no reviewable issue or the applicant was referred back to the public body.

**FIPPA/PIPA Inquiry/Consent Order** refers to files that proceeded to Inquiry.

**Complaint Investigations** include all files that were mediated, not substantiated, partially substantiated, substantiated or withdrawn.

**Complaint No Investigations** include files closed under no jurisdiction, no reviewable issue or refer back.

**Request for Review, Declined to Investigate/Discontinued**, include files closed under no reviewable issue, refer back and no jurisdiction.

## TABLE 11. Outcome of requests for review resolved in 2022-23 PIPA

| TYPE | Mediated/ resolved | Declined to investigate/ discontinued | Inquiry | Total |
|---|---|---|---|---|
| Deemed refusal | 53 | 10 | 0 | **63** |
| Deny access | 20 | 7 | 2 | **29** |
| Partial access | 6 | 1 | 4 | **11** |
| Scope | 1 | 0 | 1 | **2** |
| **TOTAL** | **80** | **18** | **7** | **105** |

# YEAR IN NUMBERS

## TABLE 12. Outcome of requests for review resolved in 2022-23, FIPPA

| Type | Mediated/ resolved | Declined to investigate/ discontinued | Inquiry | Total |
|---|---|---|---|---|
| Deemed refusal | 135 | 27 | 14 | **176** |
| Deny access | 64 | 14 | 19 | **97** |
| Notwithstanding | 1 | 0 | 0 | **1** |
| Partial access | 192 | 13 | 72 | **277** |
| Refusal to confirm or deny | 4 | 0 | 0 | **4** |
| Scope | 2 | 3 | 2 | **7** |
| Third Party | 10 | 3 | 11 | **24** |
| **TOTAL** | **408** | **60** | **118** | **586** |

## TABLE 13. Outcome of all requests for review resolved by the OIPC (FIPPA and PIPA) in 2022-23

| Mediated/resolved | Inquiry | Declined to investigate/ discontinued | Total |
|---|---|---|---|
| 488 | 125 | 78 | **691** |

**Complaints and Requests for Review Files closed by stage of resolution:**
April 1, 2022-March 31, 2023


The two main types of files processed by the OIPC are access and privacy **complaints**, and **request for reviews** of access to information responses.

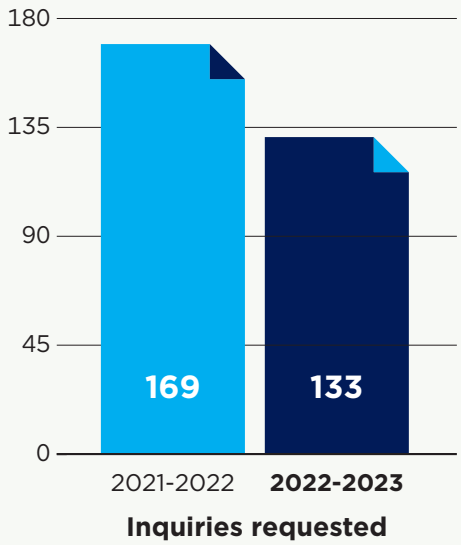
Complaints and requests for review are often resolved early on by Case Review Officers or Investigators. Some files that cannot be resolved during these stages are sent to Adjudicators.

# ADJUDICATION

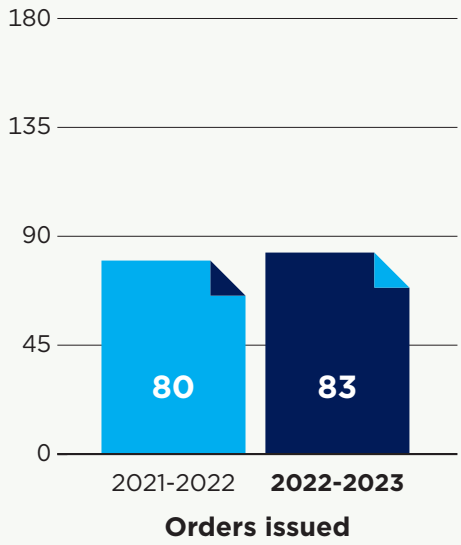
When investigation and mediation do not resolve a dispute, the Commissioner or their delegate may conduct an inquiry. At the inquiry, the adjudicator reviews written evidence and arguments, decides all questions of fact and law and issues a final and binding order. Orders are subject to judicial review by the Supreme Court of British Columbia.[1]

The following orders provide a snapshot of the varied nature of the cases handled at adjudication over the past year:

- A massage therapist complained that the College of Massage Therapists of British Columbia contravened FIPPA when it improperly disclosed his personal information at the conclusion of the College's inquiry committee process. (F22-50)
- An applicant requested records relating to the McAbee Fossil beds near Cache Creek from the Ministry of Forests, Lands, Natural Resource Operations and Rural Development under FIPPA. (F22-57)
- An applicant requested the Board of Education of School District 61 provide, under FIPPA, copies of statistical reports relating to the number of times students with special needs were removed from classes or excluded from school trips. (F22-40)
- A union requested access under FIPPA to reports generated by E-Comm Emergency Communications for British Columbia Inc. about call statistics, operational performance, call-taking and dispatch services. (F22-35)
- A realtor complained that the BC Financial Services Authority disclosed his personal information contrary to FIPPA when it posted orders related to his real estate licence online. (F22-45)
- An applicant asked the Richmond City Baseball Association for a copy of his and his son's personal information under PIPA. (P22-04)
- A resident of an apartment complained that the building management company was contravening s. 6 of PIPA by inappropriately collecting and using her personal information that it obtained through its video surveillance system. (P22-08)
- Two congregations of Jehovah's Witnesses argued that PIPA did not apply to them and it also violated the *Canadian Charter of Rights and Freedoms* (Charter). The congregations have filed for judicial review of the OIPC's order. (P22-03)

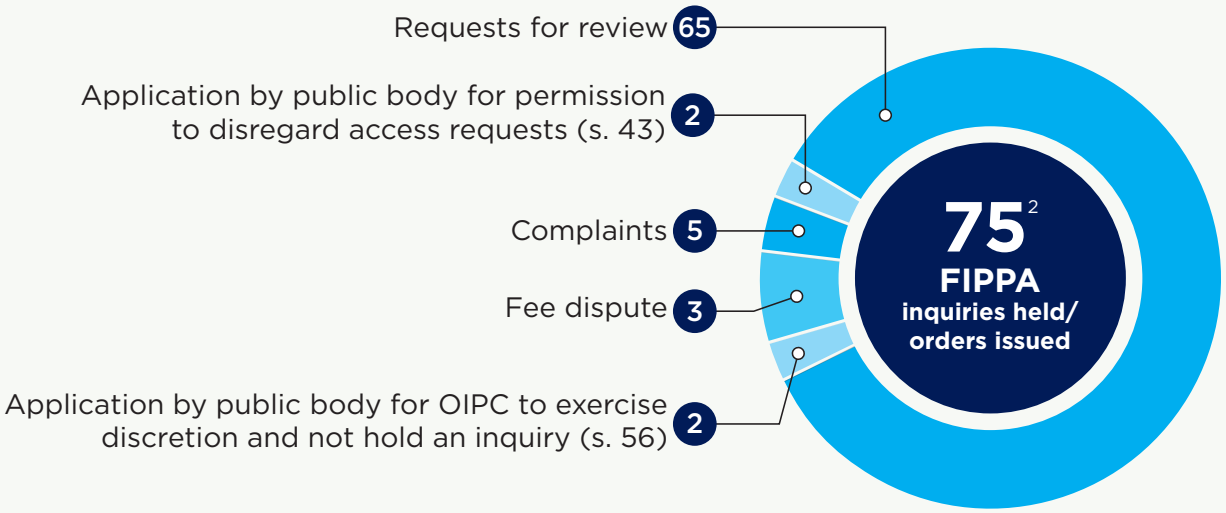


**Inquiries requested**



**Orders issued**

1. The Commissioner's formal rulings are subject to judicial review by the Supreme Court of British Columbia. The OIPC publishes orders that have been judicially reviewed here: https://www.oipc.bc.ca/rulings/judicial-reviews/





2. The total adds up to 75, not 77, because two of the inquiries involved a request for review as well as a complaint.

# FINANCIAL REPORTING

## Nature of operations

The Information and Privacy Commissioner is an independent Officer of the Legislature whose mandate is established under the *Freedom of Information and Protection of Privacy Act* (FIPPA) and the *Personal Information Protection Act* (PIPA).

FIPPA applies to more than 2,900 public agencies and accords access to information and protection of privacy rights to citizens. PIPA regulates the collection, use, access, disclosure and retention of personal information by more than one million private sector organizations.

The Commissioner has a broad mandate to protect the rights given to the public under FIPPA and PIPA. This includes conducting reviews of access to information requests, investigating complaints, monitoring general compliance with the Acts, and promoting freedom of information and protection of privacy principles. In addition, the Commissioner is the Registrar of Lobbyists and oversees and enforces the *Lobbyists Transparency Act*.

Funding for the operation of the Office of the Information and Privacy Commissioner is provided through a vote appropriation (Vote 6) of the Legislative Assembly. The vote provides separately for operating expenses and capital acquisitions, and all payments or recoveries are processed through the Province's Consolidated Revenue Fund.

The Office receives approval from the Legislative Assembly to spend funds through this appropriation. There are two components: operating and capital. Any unused appropriation cannot be carried forward for use in subsequent years.

The following table compares the Office's voted appropriations, total operating and capital expenses, and the total remaining unused appropriation (unaudited) for the current and previous fiscal years:

| 2022-23 | Operating | Capital |
|---|---|---|
| Appropriation | $9,096,000 | $360,000 |
| Total operating expenses | $8,585,732 | - |
| Capital acquisitions | - | $152,753 |
| Unused appropriation* | $510,268 | $207,247 |

**NOTE:** *$200,000 of the unused portion was for a specific project for a new case management system that has moved into FY 2024.

| 2021-22 | Operating | Capital |
|---|---|---|
| Appropriation | $7,589,000 | $83,000 |
| Total operating expenses | $7,391,242 | $0 |
| Capital acquisitions | $0 | $68,625 |
| Unused appropriation | $197,758 | $14,375 |

## Tangible capital assets

Tangible capital assets are recorded at historical cost less accumulated depreciation. Depreciation begins when the asset is put into use and is recorded on the straight-line method over the estimated useful life of the asset.

The following table shows the Office's capital assets (unaudited).

| 2022-23 | Closing cost | Closing accumulated amortization | Net book value (March 31/23) |
|---|---|---|---|
| Computer hardware and software* | $812,855 | ($428,215) | $384,640 |
| Tenant improvements | $0 | $0 | $0 |
| Furniture and equipment | $15,915 | ($11,582) | $4,333 |
| **Total tangible capital assets** | **$828,770** | **($439,797)** | **$388,973** |

**NOTE:** *includes $90,218 work in progress for new case management system.

| 2021-22 | Closing cost | Closing accumulated amortization | Net book value (March 31/22) |
|---|---|---|---|
| Computer hardware and software | $753,635 | ($368,590) | $385,045 |
| Tenant improvements | $0 | $0 | $0 |
| Furniture and equipment | $32,995 | ($25,629) | $7,366 |
| **Total tangible capital assets** | **$786,630** | **($394,219)** | **$392,411** |

## Public Interest Disclosure Act

British Columbia's *Public Interest Disclosure Act* (PIDA) allows BC government ministry employees, employees of independent offices, like the OIPC and ORL, and the Legislative Assembly, as well as former public servants to report specific kinds of serious wrongdoing without fear of reprisal.

PIDA requires public bodies in British Columbia to report on investigations into wrongdoing started under the Act, the number of disclosures made internally, and the number of disclosures received by the Office of the Ombudsperson.

The Office of the Information and Privacy Commissioner and the Office of the Registrar of Lobbyists have not had any investigations or disclosures under PIDA between April 1, 2022 and March 31, 2023.


# OUTREACH

COMMISSIONER MCEVOY AND OIPC STAFF ARE FREQUENT SPEAKERS AND PARTICIPANTS AT EVENTS AND CONFERENCES THROUGHOUT BRITISH COLUMBIA — AND BEYOND.

*Commissioner Michael McEvoy at the Vancouver International Privacy & Security Summit in February*

Here are some of the events that featured OIPC speakers and presenters during the 2022-2023 fiscal year:

- Archives Association of British Columbia
- BC Health Coalition
- Big Data Surveillance CHIMA
- Canadian Bar Association, BC Branch
- Canadian Union of Public Employees
- Centre for Information Policy Leadership
- Data & AI Showcase Roadshow 2022
- Global Privacy Assembly
- IdentityNORTH
- NetDiligence
- Northern Health
- Simon Fraser University
- Thompson Rivers University
- University of Victoria
- Vancouver Human Rights and Accommodation Conference
- Vancouver International Privacy & Security Summit

# RESOURCES

## Getting started

- Access to data for health research
- BC physician privacy toolkit
- Developing a privacy policy under PIPA
- Early notice and PIA procedures for public bodies
- Guide to OIPC processes (FIPPA and PIPA)
- Guide to PIPA for business and organizations
- Privacy impact assessments for the private sector
- Privacy management program self-assessment

## Access (General)

- Common or integrated programs or activities
- Guidance for conducting adequate search investigations (FIPPA)
- How do I request records?
- How do I request a review?
- Instructions for written inquiries
- PIPA and workplace drug and alcohol searches: a guide for organizations
- Section 25: The duty to warn and disclose
- Time extension guidelines for public bodies
- Tip sheet: requesting records from a public body or private organization
- Tip sheet: 10 tips for public bodies managing requests for records

## Privacy (General)

- Collecting personal information at food and drink establishments, gatherings, and events during COVID-19
- Direct-to-consumer genetic testing and privacy
- Disclosure of personal information of individuals in crisis
- Employee privacy rights
- FIPPA and online learning during the COVID-19 pandemic
- Guide for organizations collecting personal information online
- Guide to using overt video surveillance
- Identity theft resources
- Information sharing agreements
- Instructions for written inquiries
- Obtaining meaningful consent
- Political campaign activity code of practice
- Political campaign activity guidance
- Privacy and the BC vaccine card: FAQs
- Privacy guidelines for strata corporations and strata agents
- Privacy-proofing your retail business
- Privacy tips for seniors: Protect your personal information
- Private sector landlords and tenants
- Protecting personal information away from the office
- Protecting personal information: cannabis transactions
- Reasonable security measures for personal information disclosures outside Canada
- Responding to PIPA privacy complaints
- Securing personal information: A self-assessment for public bodies and organizations

## Comprehensive privacy management

- Accountable privacy management in BC's public sector
- Getting accountability right with a privacy management program

## Privacy breaches

- Accountable privacy management in BC's public sector
- Privacy breaches: tools and resources for public bodies
- Privacy breach checklist for private organizations
- Privacy breach checklist for public bodies
- Privacy breaches: tools and resources for the private sector
- Privacy breaches: tools and resources for public bodies

## Technology and social media

- Guidance for the use of body-worn cameras by law enforcement authorities
- Guidelines for online consent
- Guidelines for conducting social media background checks
- Mobile devices: tips for security & privacy
- Public sector surveillance guidelines
- Tips for public bodies and organizations setting up remote workspaces
- Use of personal email accounts for public business

OFFICE OF THE INFORMATION & PRIVACY COMMISSIONER FOR BRITISH COLUMBIA

For more information about BC's access and privacy laws, visit oipc.bc.ca

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